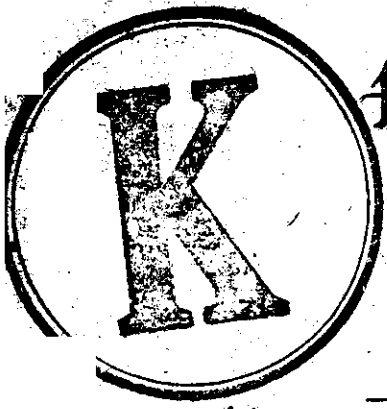




1951.

P-5  
E

File No. Khar Lands  
II/51 (N)

Legal Department  
B BRANCH

A  
17

Subject:— Notifications under  
the Bombay Khar Lands  
Act, 1948

333-B

File No. Khar Lands II/51 (N)

333-B

Office of the  
Khar Lands Development Board,  
Bombay, February 1951.

NOTIFICATION.

No. -In exercise of the powers  
conferred i on it under section 12 of the Bombay  
Khar Lands Act, 1948 (Bom.LXXII of 1948) and in  
superaession of its Notification No.K.B.218-B,  
dated the 17th August 1950, the Khar Lands Development  
Board is pleased to prepare the following draft scheme:-

DRAFT SCHEME.

(Here insert A - A onpages 9-10 ante).

Secretary,  
Khar lands Development Board, Bombay.

BKS. 28/6/ 4c.

$\frac{A}{27}$

Office of the R.L.A.

A revised draft notification is sent herewith subject to the following observations :-

No action under section 20 of the Bombay Khar Lands Act, 1948, is competent unless there is an application from the Board to that effect. The letter at page 69 ante purported to have been written by the Secretary, Khar Lands Development Board, is not in fact a letter on behalf of the Board. Such an application from the Board is necessary as under rule 12 of the Bombay Khar Lands Rules, 1949, it is the Board which has to deposit the cost of the acquisition of the land.

Id/-J.R.D. 31/3  
Remembrancer of Legal Affairs.

U.R. to R.D., No. 8609, dated the 1st June 1951.

BRS. 28/6/ 4c.

NOTIFICATION.

Revenue Department,  
Bombay Castle, May 1951.

Bombay Khar  
lands Act,  
18.

No.6188/49.- Whereas on the application of the Board it appears to the Government of Bombay that the lands specified in the Schedule appended hereto should, for the purposes of the Achare Khar Lands Scheme sanctioned under Government Notification in the Revenue Department No.7850/49-F, dated the 5th January 1951, be compulsorily acquired ;

Now, therefore, in exercise of the powers conferred by section 20 of the Bombay Khar Lands Act, 1948 (Bom. LXXII of 1948) , the Government of Bombay is pleased to notify that the said lands shall be compulsorily acquired for the purpose of the said scheme.

SCHEDULE.

{ Please insert here pages 105 to 107 ante).

By order of the Governor of  
Bombay,

Secretary to Government.

BKS. 28/6/ 4c.

OFFICE OF THE R.L.A.

In this case the scheme has been already finally published under section 15(2) and (3) of the Bombay Khar Lands Act, 1948. Section 20 of the Act provides that if at any time, on the application of the Board, it appears to the State Government that any land or the right or interest of any person in any land should for the purposes of any scheme under the Act be compulsorily acquired, it shall be lawful for the State Government to publish a notification to that effect in the Official Gazette. The words "if at any time" are wide enough to include the power to acquire land even after the scheme has been published under section 15 of the Act. As the provisions of the Act stand it is obligatory even upon landlords to pay contributions for the scheme under the Act. ~~xxxxxx~~ Section 31 provides that the contribution shall be paid to the Board annually and section 40 provides that all amount due under the Act shall be recoverable as arrears of land revenue. It is therefore clear that even those landlords whose lands will be acquired by Government under section 20 of the Act will have to pay contributions under the Act for the scheme even though ultimately the benefit of the scheme will not accrue to them when the scheme is completed.

2. It is true, as stated by the Secretary, Khar Lands Development Board, that where lands have been acquired under section 20 of the Act after the scheme had been published under section 15(3) of the Act, the Acquiring Officer cannot taken into consideration the amount of contribution to be paid by the owners of lands while determining the compensation under section 20. It is not, however, necessary to amend the Act for the purpose. Under rule 17 of the Bombay Khar Lands Rules, 1949, the annual contribution payable under section 31 shall be fixed by the State Government after consultation with the Board and shall be declared in the notification published in the Official Gazette. Landlords will have to pay the contribution till the lands

are duly acquired under section 20. The difficulty which the Board feels in the present case appears to be that since the landlords whose lands are to be acquired are not to be benefited by this scheme, it would seem inequitable that they should be made to pay the contribution. There is nothing, however, in the Act which prohibits Government or the Board from refunding the amount of contribution recovered till the date of acquisition of the lands to those landlords whose lands have been acquired. Even though the Acquiring Officer is not empowered to include the amount of contributions in the compensation to be determined by him under section 20, it is not necessary to amend the Act for the purpose.

3. The draft at page 67 correspondence section as slightly amended is in order. It is presumed that a formal request from the Board has been received.

Id/-J.R.D. 30/8  
Remembrancer of Legal Affairs.

U.R. to R.D. No. 92-L, dated the 30th August 1951.

BKS. 28/6/ 4c.